

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ARIYANA DAVIS, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MARCUS D. DAVIS,

Respondent-Appellant,

and

MICHELLE MARTINEZ,

Respondent.

UNPUBLISHED

October 1, 2009

No. 290615

Wayne Circuit Court

Family Division

LC No. 08-482623

In the Matter of ARIYANA DAVIS, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MICHELLE MARTINEZ,

Respondent-Appellant,

and

MARCUS D. DAVIS,

Respondent.

No. 290617

Wayne Circuit Court

Family Division

LC No. 08-482623

Before: Murphy, P.J., and Meter and Beckering, JJ.

MEMORANDUM.

In these consolidated appeals, respondents appeal as of right the trial court's order terminating their parental rights to the minor child. Respondent Marcus Davis's rights were terminated pursuant to MCL 712A.19b(3)(b)(i), (g), (j), and (n)(i), and respondent Michelle Martinez's rights were terminated pursuant to MCL 712A.19b(3)(g) and (j). We affirm. These appeals have been decided without oral argument pursuant to MCR 7.214(A) and (E), respectively.

The trial court did not clearly err in finding that §§ 19b(3)(b)(i), (j), and (n)(i) were established by clear and convincing legally admissible evidence with respect to Davis, or in finding that § 19b(3)(j) was established by clear and convincing legally admissible evidence with respect to Martinez. MCR 3.977(E)(3); *In re Utrera*, 281 Mich App 1, 16-17; 761 NW2d 253 (2008). The evidence showed that Davis had repeatedly sexually abused Martinez's other young daughter while they were living together as a family, for which Davis was convicted by no contest plea of one count of second-degree criminal sexual conduct and served one year in jail. He was then subject to five years' probation. Despite this, Martinez voluntarily resumed a relationship with Davis and moved into his home with the minor child. Martinez had her older daughter, who had been sexually abused by Davis, live in a home that Martinez deemed unsafe for the minor child due to the presence of an illicit drug user. Davis was found at home alone with the minor child in violation of the terms of his probation requiring that he have no unsupervised contact with any child under the age of 16, including the minor child. While Martinez claimed at the time of the permanent custody hearing to have severed her relationship with Davis, she had simply moved out of his home and into the home of his mother.

Further, the trial court did not clearly err in finding that termination of respondents' parental rights was in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 354, 356-357; 612 NW2d 407 (2000) (stating that this Court reviews a trial court's decision regarding the child's best interests for clear error). Therefore, the trial court did not err in terminating respondents' parental rights to the child.

Affirmed.

/s/ William B. Murphy

/s/ Patrick M. Meter

/s/ Jane M. Beckering